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HB 729
RELATING TO COMMERICAL FISHING

Statement for
House Committee on
Ocean and Marine Resources

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HB 729 proposes amendment of Section 1, the definitions section of Part I, the part on licensing and regulation, of HRS Chapter 189, the chapter on commercial fishing. This statement on the bill does not reflect an institutional position of the University.

The intent of HB 729 may or may not be appropriate. The bill is, however, misrepresented by its title, and it would accomplish its intent in a manner that would be quite misleading to the public, indeed absurd.

From the justification for the bill that has been provided by the Department of Land and Natural Resources (DLNR), it appears that the department has attempted to require that the collectors of seaweed for sale, or the sellers, be licensed under the provisions of Part I of Chapter 189, and that a court has ruled against the department. Whether or not seaweed collectors or sellers should be licensed is not a question on which we wish to express an opinion here. However, in our opinion the court was right in ruling the DLNR has no authority to license seaweed collectors under Part I of HRS 189. It is our further opinion that the authority DLNR seeks cannot appropriately be provided in the form of this bill.

Commercial fishing is defined in HRS 189-1 as meaning "the fishing for or taking of fish for profit or gain or as a means of livelihood...". Fish is defined as meaning "any type or species of salt water fish, shellfish, crustaceans, or other marine animals or products...". It is apparently the DLNR's consideration of seaweed as a marine animal that the Court has disallowed. HB 729 proposes, therefore, to add "'plants and seaweeds" to the definition of fish.

It is not unusual for a term to be defined in a legal context in a manner that is somewhat different from its ordinary meaning. Slight extensions or slight restrictions of the ordinary meaning of terms may be justifeid in legal useage to avoid repetitious language. However, defining a term so that it would include things that are clearly differentiated from it in ordinary useage is an Alice in Wonderland trick. Even the inclusion of all marine

animals as fish is a considerable extension beyond ordinary useage. Classification of seaweed as a fish would be laughable except that the affected public will be seriously misled. How many limu collectors would even imagine that they should look in a chapter on commercial fishing to see whether they need licenses? What commercial limu harvesters have suspected that a bill titled as relating to commercial fishing would affect their livelihood?

If there is reason for licensing commercial limu collectors and sellers, it is questionable that the licensing requirement should be placed in Part I of HRS 189. If it is, other sections of Part I would have to be amended to cover limu collection and selling, for example Sections 189-10 and 189-11 which require that a fish dealer must report his sales not only in weight and value but in number. Would a limu dealer count the fronds of limu as they grew or the pieces broken in harvesting?

If there is reason for licensing commercial limu collectors and sellers, the requirement should not be made by calling limu fish as proposed in HB 729.